



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,304	01/17/2002	Masood Seyed Mortazavi	SUN1P849/P7352	8384

22434 7590 07/01/2005

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

EXAMINER

KHATRI, ANIL

ART UNIT	PAPER NUMBER
----------	--------------

2193

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,304

Applicant(s)

MORTAZAVI, MASOOD SEYED

Examiner

Anil Khatri

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-23, 25-29 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-23, 25-29 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. This office action is in response for reconsideration filled on 6/3/05.
2. As per applicant's request claims 1-13, 24 and 30 have been canceled and claims 14, 15, 18-21, 23 have been amended; and new claim 31 have been entered.
3. As per applicant's request claims 14-23 and 25-29 have been considered but they are persuasive.
4. Claims 14-23, 25-29 and 30 stand rejected under 35 U.S.C. 102(e) as being unpatentable over *Sharma et al* WO 02/091178 A2.

In remarks applicant argues,

I) "loading an online upgrade module that includes a first container based software component an online upgrade listener and an online upgrade specification..

II) "an upgrade prepare stage a pre-upgrade stage one or more upgrade operations a post upgrade stage and commit stage".

III) "loading one or more listener classes associated with online upgrade listener, instantiating the one or more listeners associated with the online upgrade listener and performing one or more callback via the online upgrade listener.

IV) "assuring successful draining of an older version of an application program performing one or more callbacks unloading the older version of application program and conveying information about the assuring performing or unloading to a management entity.

Response to the arguments,

I) It was noted that cited reference fairly suggests loading an online upgrade module that includes a first container based software component an online upgrade (figure 3, page 5, summary of the invention, lines 1-17)". Thus, limitations are met by the reference

II) It was also noted that reference teaches an upgrade prepare stage a pre-upgrade stage one or more upgrade operations (page 8, line 6-12). Therefore, limitations are met by the reference.

III) Cited reference also suggests loading one or more listener classes associated with online upgrade listener with one line upgrade (page 10, lines 24-30, page 11, lines, 17-22). Thus, limitations are met by the reference.

IV). It was also noted that cited reference fairly suggests of assuring successful draining of an older version of an application program performing one or more callbacks unloading the older version of application program (page 5, summary of the invention lines 7-17, page 18, lines 13-20). Therefore, limitations are met by the reference.

Regarding claim 31

Rejection of claim 1 is incorporated and further claim 31 recites similar limitations a claim 1, therefore, claims 31 is rejected under same rational as claim 1.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2193

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri, Primary Examiner whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANIL KHATRI
PRIMARY EXAMINER